

**DEPARTMENT OF
WATER RESOURCES**

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT OF THE
STATE OF IDAHO, IN AND FOR THE COUNTY OF TWIN FALLS

In Re SRBA

Subcases: 21-2154

Case 39576

**AMENDED MOTION TO FILE
AMENDED NOTICE OF CLAIM**

X I have read *SRBA Administrative Order 1, Rules of Procedure* (amended Sept. 30, 1996).

My name is North Fork Reservoir Co.

My address is: P.O. Box 250, Rexburg, ID 83440

My phone number is: (208)356-3633

I am an attorney representing North Fork Reservoir Co.

My name is Jerry R. Rigby

My address is: 25 North 2nd East, P.O. Box 250, Rexburg, Idaho 83440

My phone number is: (208) 356-3633

MOTION TO FILE AN AMENDED NOTICE OF CLAIM

A Motion to File and Amended Notice of Claim may require a hearing before the Presiding Judge or Special Master or may be granted by leave of the court or by written consent of the parties and the Idaho Department of Water Resources. Leave to amend a claim shall be freely given when justice so requires.

X Claimant as part of those Claimants (set forth in Exhibit B) to the various Subcases (contained in Exhibit A) must amend their individual Notice of Claims to the use of the water in the SRBA because: In 2006, the various Claimants objected to their individual recommended water rights, citing in chief that the diversion of groundwater resulting from irrigation of water under the irrigation works of an irrigation entity authorized to divert surface (natural flow or storage) water for use and benefit of its shareholders/electors was authorized pursuant to rights granted under I.C. §42-1425 and/or I.C. §42-228 (see Standard Form 1 Objection filed in each of the various Subcases). Several third party water users then filed responses to said objections. Since 2006, the various parties to the various subcases have been in numerous mediations and negotiations which have not resulted in any substantial settlement of the issues. In the mean time, there have also been certain decisions rendered by the SRBA Court and Special Masters which help address the Claimants' entitlement to the additional rights. Therefore, in order to further pursue the above described rights, surface water Claimants now seek to have their individual claims amended to authorize the water rights of the various surface water irrigation entities to such additional rights of "recharge for irrigation" and/or recovery of water resulting from irrigation by its shareholders/electors within its authorized place of use. This claimed right would include adding such additional points of diversion or re-diversion to the location of each qualifying well of such irrigation entity's shareholder/elector.

In conjunction with the above (although not necessarily required should the above surface water Claimants rights be granted which entitle any qualified well to recover the authorized water from its individual well), and in order to further pursue the above described rights, certain ground water Claimants also seek to have their individual claims amended to authorize the water rights of said ground water Claimants to such additional rights of recovery by each qualifying well of water authorized as "recharge for irrigation" and/or water resulting from irrigation by the irrigation entity's shareholder/electors within its authorized place of use.

This claimed right would include modifying the priority date of each qualifying well to the same date as the original water supply being diverted by the irrigation entity within whose borders the qualifying well is located and appurtenant. This then results in there being two sources of water for each well: The recharge or reclaimed water of the irrigation entity and the groundwater source under the well license, which would allow the well to continue to pump under its license if there is no qualifying right of recovery for the surface water source.

Qualifying Wells are those owned by stockholders/electors within the irrigation entity's authorized place of use and which are recovering ground water resulting from recharge for irrigation and/or water resulting from irrigation under the irrigation entity's irrigation works for use on lands within the irrigation entity's authorized place of use.

Claimants did not seek to amend their claims in 2006 to conform to the intent of their objections due in part to the fact that the pending mediation of the various parties, if successful, may have required Claimants to amend their claims in a manner differently than as they would have amended them in 2006 without the mediation. However, the proposed Amendments have always been "on the table" among the parties who have been involved in the mediation and negotiations.

Finally, as to this individual Claimant: Water right number 21-12946 was licensed in 05/15/1917 with a volume of 79,350 AF and later decreed in the Clark and Edwards Decree in 1932 at 6473.8 ' above sea level; Water right number 21- 2154 was licensed in 05/15/1917 out of Dry Creek with a volume of 4000 AF and decreed in the Clark and Edwards decree in 1932 at 6473.8' above sea level; Water right numbers 21-110,21-111, and 21-112 were all Decreed in the Rexburg Decree with a total acre feet diverted each year of 1000 AF out of Timber and Johnson Creek. It was a clerical mistake that the priority date was not recorded in the official records at the 05/15/1917 date.

- ☒ I am providing legal and factual documentation to support my amended Notice of Claim. You must describe these documents and attach a readable copy.
The substantial documentation, IDWR water diversion reports and spreadsheets supporting the various rights claimed by Claimants in this amended claim have been supplied to Respondents/Objectors on multiple occasions and in multiple fashions over the five (+/-) years of negotiation and mediation among the parties. Nevertheless, Claimants will supply the same to the Court upon its request and again supply such information and documentation to any Respondent/Objector who requires the same.

I have attached:

- ☒ An Amended Notice of Claim (available from IDWR). This motion has attached to it the "Amended Notice of Claim" for this single water right.
- ☐ Payment of the following additional fees required by IDWR:
- ☒ Fees have been paid when the claims were originally filed.

This motion will be heard on: October 13, 2010 at 10:00 a.m. at the SRBA courthouse, 253 Third Avenue North, Twin Falls, Idaho. Parties may participate by phone by dialing 1-215-446-0193 and when prompted enter participant code 926509.

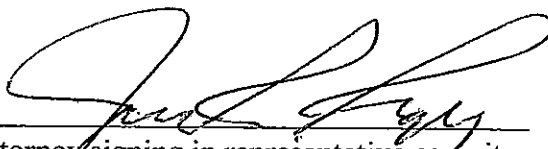
VERIFICATION

STATE OF IDAHO,)
 ss
County of Madison.)

Jerry R. Rigby, being first duly sworn, upon oath, deposes and says:

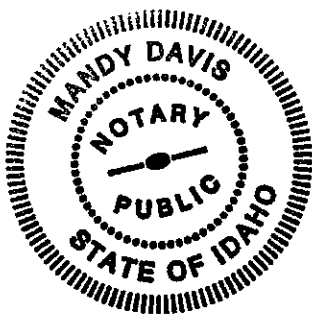
That I am the Secretary of party/claimant filing this motion for late or amended claim (as listed on Page 2) as defined by I.C. §§ 4204101A(1) and (7) or that I am the attorney for the party/claimant filing this motion for late or amended claim and that I have read this motion, know its contents, and believe that the statements are true to the best of my knowledge.

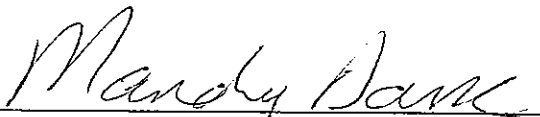
Signature of person filing motion



Attorney signing in representative capacity.

Subscribed and sworn to before me on this 11th day of October, 2010.





Notary Public for Idaho
Residing at St. Anthony
My Commission Expires: 06/24/2011

CERTIFICATE OF MAILING

I certify that on October 11, 2010, I mailed the original and copies of this form, including all attachments, to the following persons by electronic mail as follows:

1. Original to

Clerk of the District Court
Snake River Basin Adjudication
253 Third Avenue North
P. O. Box 2707
Twin Falls, ID 83303-2707

2. Copies to:

IDWR Document Depository
P. O. Box 83720
Boise, ID 83720-0098

Chief, Natural Resources Division
Office of the Attorney General
State of Idaho
P. O. Box 44449
Boise, ID 83711-4449

United States Department of Justice
Environment and Natural Resources
Division
550 West Fort Street, MSC 033
Boise, ID 83724

Committee of Nine
Milner Irrigation District
Represented by:
Barker Rosholt & Simpson
P.O. Box 485
Twin Falls, ID 83303

American Falls Reservoir
C/O C. Thomas Arkoosh
P.O. Box 32
Gooding, ID 83330

Shoshone Bannock Tribes
C/O Jeanette Wolfley
202 N. Arthur
Pocatello, ID 83202

Milner Irrigation District
C/O John K. Simpson
P.O. Box 2139
Boise, ID 83701

Aberdeen American Falls
Bingham Ground Water District
Bonnevile Jefferson Ground Water Dist.
Clark Jefferson Ground Water Dist.
IGWA
IGWA Inc.
Madison Ground Water Dist.
Magic Valley Ground Water Dist.
North Snake Ground Water Dist.
C/O Randall C. Budge
P.O. Box 1391
Pocatello, ID 83204

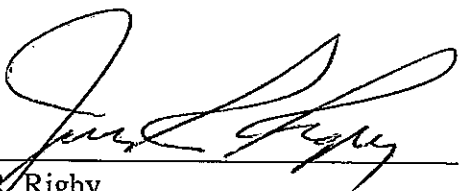
A&B Irrigation District
Burley Irrigation District
C/O Roger D. Ling
P.O. Box 396
Rupert, ID 83350

Milner Irrigation District
North Side Canal Co.
Twin Falls Canal Co.
C/O Travis Thompson
P.O. Box 485
Twin Falls, ID 83303

Minidoka Irrigation District
C/O Kent Fletcher
P.O. Box 248
Burley, ID 83318

United States of America
Regional Director PN Region
Bureau of Reclamation
1150 N. Curtis Rd., Ste. 100
Boise, ID 83706

Layne Harris
Lena Harris
R. Layne Harris
C/O Robert L. Harris
P.O. Box 50130
Idaho Falls, ID 83405


Jerry R. Rigby

IN THE DISTRICT COURT OF THE FIFTH JUDICIAL DISTRICT
OF THE STATE OF IDAHO,
IN AND FOR THE COUNTY OF TWIN FALLS

IN RE THE GENERAL ADJUDICATION
OF RIGHTS TO THE USE OF WATER FROM
THE SNAKE RIVER BASIN WATER SYSTEM

CIVIL CASE NUMBER: 39576

Ident. Number 21-2154

Date Received:
Receipt Nos:
Received By:

**AMENDED
NOTICE OF CLAIM TO A WATER RIGHT
ACQUIRED UNDER STATE LAW**

Name of Claimant NORTH FORK RESERVOIR CO
C/O RAY W. RIGBY
P.O. BOX 250
REXBURG, ID 83440
(208)356-3633

Priority Date: 05/15/1917
Basis: Decreed
Status: Active

<u>Source</u>	<u>Tributary</u>
TYGEE CREEK	HENRYS FORK

<u>Beneficial Use</u>	<u>From</u>	<u>To</u>	<u>Diversion Rate</u>	<u>Volume</u>
IRRIGATION STORAGE	01/01	12/31		4000 AFA
IRRIGATION FROM STORAGE	04/01	10/31		4000 AFA
DIVERSION TO STORAGE	01/01	12/31	30 CFS	
Recharge for Irrigation	04/01	10/31		4000 AFA
Total Diversion			30 CFS	

Location of Point(s) of Diversion:

TYGEE CREEK	SWSNW	Sec. 24	Township 15N	Range 43E	FREMONT County
TYGEE CREEK Injection	NWNW Lt 4	Sec. 26	Township 15N	Range 43E	FREMONT County
TYGEE CREEK Rediversion	SESWNW	Sec. 26	Township 15N	Range 43E	FREMONT County

All Qualified Wells of the stockholders/electors as described in Remarks below.

Place(s) of use: Within the area served by this irrigation entity

Remarks: Diversion of this right for the purpose of recharge for irrigation is authorized for a maximum acreage equivalent to the authorized place of use for this right. This right includes an accomplished change in place of use pursuant to Section 42-1425, Idaho Code. § I.C. 42-1425 and/or I.C. 42-228. This right includes an accomplished change in point of diversion pursuant to Sections 42-1425 and/or 42-228, Idaho Code.

Qualified Wells are those owned by stockholders/electors within the authorized place of use and which are recovering ground water resulting from recharge for irrigation and/or water resulting from irrigation under this entity's irrigation works for use on lands within this irrigation entity's authorized place of use.

1. Place of use is within the area served by the Egin Bench Canal Company, the Salem-Union Canal Company, the Consolidated Farmers Canal company, and the Last Chance Canal Company.
This partial decree is subject to such general provisions necessary for the definition of the rights or for the efficient administration of the water rights as may be ultimately determined by the Court at a point in time no later than the entry of a final unified decree. Section 42-1412(6), Idaho Code.
2. C18
3. TOTAL RESERVOIR CAPACITY IS 89,900 ACRE FEET WHEN FILLED TO ELEVATION 6635 AND MEASURED AT THE UPSTREAM FACE OF THE DAM.
4. The place of use is within the boundaries of the canal companies owning the North Fork Reservoir Company located within Madison and Fremont Counties, Idaho.

Describe any other water rights used at the same place and for the same purposes as describe

above: Those water rights recommended as of the date of this amended claim.

Basis of Claim: Decreed

Signature(s)

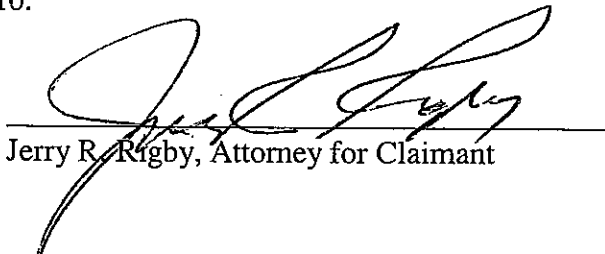
(a.) By signing below, I/We acknowledge that I/We have received, read and understand the form entitled "How you will receive notice in the Snake River Basin Adjudication." (b.) I/We do _____ do not XX wish to receive and pay a small annual fee for monthly copies of the docket sheet.

Number of attachments: Previously submitted and on file with IDWR

For Individuals/Organizations:

I do solemnly swear or affirm under penalty of perjury that I am the attorney for the above individual or organization, that I have signed the foregoing document in the space below as attorney for the individual or organization and that the statements contained in the forgoing document are true and correct.

DATED this 11th day of October, 2010.


Jerry R. Rigby, Attorney for Claimant

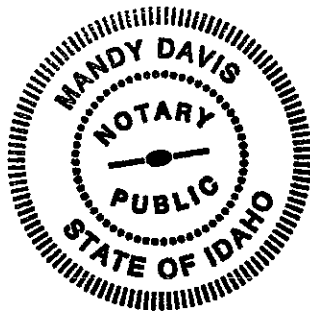
STATE OF IDAHO,)

SS.

County of Madison.)

On this 17th day of August, 2010, before me, the undersigned, a Notary Public in and for said State, personally appeared Jerry R. Rigby, known to me to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.




 Notary Public for Idaho
 Residing at: St. Anthony
 My Commission Expires: 6/24/2011